

REMARKS

I. Status of the Claims

Claims 20-28 are pending and stand rejected. Without prejudice or disclaimer, claims 20 and 27 have been amended.

Specifically, claim 20 has been amended to recite that the filter support plate comprises an internal surface and a plurality of elements, which define a plurality of sectors between and within which the filtered composition flows, i.e., the filtered material may pass through the sectors and between the sectors as it passes through the filter support plate. Support for this amendment can be found throughout the specification as originally filed such as, for example, at pages 9, 10, 15-17, and Figures 3a & 3b.

Claim 27 has been amended to recite that the system of pulleys, gears, or pulleys and gears subjects the at least one conducting element to a constant pull between 600 and 1500 m/min, i.e., the pulleys, gears, or pulleys and gears of the apparatus provide a constant pull between 600 and 1500 m/min. Support for this amendment can be found in the claims as-filed.

Accordingly, no new matter has been added.

II. Rejection under 35 U.S.C. § 112, second paragraph

The Examiner rejects claim 27 under 35 U.S.C. § 112, second paragraph, as allegedly “being indefinite for failing to particularly point out and distinctly claim the subject matter” of the presently claimed invention. Office Action at 2. Specifically, the Examiner takes issue with the limitation of “wherein the speed of said constant pull lies between 600

and 1500 m/min.” *Id.* The Examiner contends that Applicants are “imposing a method limitation on the apparatus described.” *Id.*

Applicants respectfully traverse. The standard for indefiniteness is whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art. *See* M.P.E.P. § 2171. Applicants respectfully submit that one of skill in the art would understand the scope of claim 27.

However, in order to advance prosecution, Applicants have amended claim 27 to further clarify that it is the system of pulleys, gears, or pulleys and gears of the apparatus that provides the constant pull recited. The limitation is not a method limitation, but an operational limitation of the apparatus as-claimed. Moreover, such “[f]unctional language does not, in and of itself, render a claim improper.” M.P.E.P. § 2173.05(g) (citing *In re Swinehart*, 169 U.S.P.Q. 226 (CCPA 1971)).

Accordingly, Applicants submit this rejection is in error and respectfully request its withdrawal.

III. Rejections under 35 U.S.C. § 103(a)

A. Claims 20-25 and 28

The Examiner rejects claims 20-25 and 28 under 35 U.S.C. § 103(a) as allegedly “being unpatentable over” Solomon (U.S. 3,922,128) (“*Solomon*”) in view of Marin (U.S. 5,182,066) (“*Marin*”). Office Action at 2. Specifically, the Examiner asserts that *Solomon* teaches

an extruding apparatus in which resin is supplied via a hopper and conveyed forward in the extruder by rotational movement of a screw (column 2, lines 16 - 18). As the melted plastic moves forward, it moves forward towards the die. The reference further

teaches that mounted in the head, adjacent the end of the barrel is a breaker plate with series of holes or passageways (column 2, lines 26-27). These passageways convert the helical movement of the plastic to longitudinal flow (column 2, lines 29 - 30).

Office Action at 2-3. The Examiner admits that *Solomon* “does not teach the use of a filtration unit in conjunction with the breaker plate or the use of a cross-linking section prior to cooling.” *Id.* at 3.

Thus, the Examiner cites *Marin* in an attempt to remedy the deficiencies of *Solomon*. The Examiner asserts that “[i]n a method to apply a layer of insulation around an electrical cable core, Marin teaches an apparatus with similar characteristics as Solomon, but also teaches the use of a filter through which the plastic is forced by the screw (column 3, line 15).” Office Action at 3 (citing *Marin*). The Examiner further states that “Marin also teaches that a cross-linking section may be used in which a cross-linking agent is added to the heated plastic and subsequently mixed (column 3, lines 39-40).” *Id.* (citing *Marin*). Thus the Examiner concludes that it “would have been obvious at the time of the invention to one of ordinary skill in the art to modify the extruding apparatus of Solomon to fit the filter of Marin for the purpose of removing particles and contaminants from the extruded plastic and the cross-linking section of Marin to add a cross-linking agent to the melted plastic.” *Id.*

Applicants respectfully traverse as the Examiner has not and cannot make a prima facie showing of obviousness. In order to establish a prima facie case of obviousness, the Examiner must show, among other things, that the reference or combination of references teaches or suggests all of the claim limitations. See M.P.E.P. § 2143. Claim 20 recites a filter support plate and, as-amended, it recites that the filter support plate of the apparatus comprises an internal surface and a plurality of elements, which define a plurality of sectors

between and within which the filtered composition flows. Neither *Solomon* nor *Marin* teach or suggest a filter support plate, generally, or a filter support plate that meets all of the claim limitations, and thus, cannot be used to establish a prima facie case of obviousness over claims 20-25 and 28. Despite teaching a filter, *Marin* does not expressly teach a filter support plate, generally, or as claimed, specifically. Similarly, *Solomon* does not expressly teach a filter support plate, since there is no filter.

Accordingly, Applicants submit this rejection is in error and respectfully request its withdrawal.

B. Claim 26

The Examiner rejects claim 26 as being allegedly “unpatentable over” Solomon (U.S. 3,922,128) (“*Solomon*”) in view of Marin (U.S. 5,182,066) (“*Marin*”), and further in view of Portinari (U.S. 4,673,540) (“*Portinari*”). Office Action at 4. The Examiner admits that “the extruders of *Solomon* and *Marin* lack a system of pulleys and/or gears to keep the conducting element under a constant pull.” *Id.*

Thus the Examiner cites *Portinari* to cure the deficiencies of *Solomon* and *Marin*. The Examiner asserts that in “a method to cover an optical cable with plastic having helical grooves in its surface, Portinari teaches the use of a pulley mounted to freely rotate on a support extending from a shaft driven by a gear to advance the cable into and out of the extruder (column 4, lines 25-26).” *Id.* (citing *Portinari*). Thus, the Examiner concludes that “It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the extruding apparatus of Solomon and Marin with the system of pulleys and gears

of Portinari for the purpose of moving the cable through the production line at a constant pace." *Id.*

Applicants respectfully traverse for at least the reason that the Examiner cannot established a prima facie showing of obviousness. As discussed above, the combination of *Solomon* and *Marin* does not teach or disclose all claimed elements as required under M.P.E.P. § 2143. *Portinari* does not teach or suggest the filter and filter support plate, as presently claimed, and thus cannot remedy the deficiency of *Solomon* and *Marin* discussed above, and cannot render claim 26 obvious.

Thus, Applicants submit this rejection is in error and respectfully request its withdrawal.

CONCLUSION


In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration of the pending claims and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Preliminary Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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